

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

DARNELL BLACK, SR.,
Plaintiff,

v.

RALPH DIAZ, et al.,
Defendants.

No. 2:20-CV-1991-JAM-DMC-P

ORDER

Plaintiff, a prisoner proceeding pro se, brings this civil rights action under 42 U.S.C. § 1983. Pending before the Court are Plaintiff's motions, ECF Nos. 6 and 7, for leave to file an amended complaint.

The Federal Rules of Civil Procedure provide that a party may amend his or her pleading once as a matter of course within 21 days of serving the pleading or, if the pleading is one to which a responsive pleading is required, within 21 days after service of the responsive pleading, see Fed. R. Civ. P. 15(a)(1)(A), or within 21 days after service of a motion under Rule 12(b), (e), or (f) of the rules, whichever time is earlier, see Fed. R. Civ. P. 15(a)(1)(B). Because Plaintiff's original complaint has not been deemed appropriate for service and has not been served, leave of Court is not required and Plaintiff may amend as of right. Plaintiff's motions will be denied as unnecessary.

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Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff's motions for leave to amend, ECF Nos. 6 and 7, are denied as unnecessary; and

2. If no first amended complaint is filed within 30 days of the date of this order, the action shall proceed on Plaintiff's original complaint.

Dated: April 8, 2021



DENNIS M. COTA
UNITED STATES MAGISTRATE JUDGE